

Assembly Bill No. 1525

CHAPTER 67

An act relating to private postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 2007. Filed with
Secretary of State July 12, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1525, Cook. Private postsecondary education.

(1) The Private Postsecondary and Vocational Education Reform Act of 1989 generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. Existing law requires the bureau, among other things, to review and investigate all institutions, programs, and courses of instruction approved under the act.

The act establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The act specifies that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act are punishable as crimes. A provision of the act provides for it to become inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.

The bill would express the intent of the Legislature to provide for the protection of the interests of students who, and institutions which, have pending matters, or any other pending business, before the bureau as of June 30, 2007.

The bill would require that each matter, as defined, pending before the bureau as of the close of business on June 30, 2007, be deemed to remain pending before the bureau or a successor agency as of February 1, 2008, irrespective of any applicable deadlines. With respect to any deadline applicable to a pending matter, the bill would require that no time be deemed to have elapsed between July 1, 2007, and January 31, 2008, inclusive. The bill would require that any institution, program, or course of study that is approved by the bureau, or authorized as prescribed, as of the close of business on June 30, 2007, be deemed to be approved as of February 1, 2008, irrespective of any applicable conditions, deadlines, or additional requirements. The bill would also require that, with respect to any deadline applicable to the approval or conditional approval of an institution, program, or course of study, no time shall be deemed to have elapsed between July 1, 2007, and January 31, 2008, inclusive.

The bill would authorize the Director of Consumer Affairs to enter into voluntary agreements with institutions that state that the institutions agree to comply with state statutes, rules, and regulations applicable to these institutions as of June 30, 2007. The bill would require institutions to disclose to their current and prospective students in writing, within 60 days of the effective date of the bill, whether they entered into, or declined to enter into, a voluntary agreement with the director.

The bill would require the rights and obligations established by the act on or before June 30, 2007, to be determined by the law in effect on or before June 30, 2007, and any claim or cause of action in any manner based on the act that arose on or before June 30, 2007, whether or not reduced to a final judgment, to be preserved. The bill would authorize any remedy that was or could have been ordered to redress a violation of the act on or before June 30, 2007, to be ordered or maintained thereafter. The bill would require the rights, obligations, claims, causes of action, and remedies set forth in this provision to remain subject to the provisions of the act in effect on or before June 30, 2007, notwithstanding the inoperative status or repeal of the act on or after July 1, 2007.

The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, thereby making an appropriation.

These provisions would be repealed on February 1, 2008.

(2) The bill would state that its provisions are to apply retroactively to July 1, 2007.

(3) The bill would continue the approval of private postsecondary institutions for specified purposes until July 1, 2008.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. (a) It is the intent of the Legislature to provide, through the enactment of subdivision (b), for the protection of the interests of students and institutions having any matter pending before the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007. The Legislature further encourages the Department of Consumer Affairs to provide information to students and institutions during this time period to ensure their understanding of their rights and responsibilities effective February 1, 2008, and that student complaints received during this time period continue to be duly recorded and, to the extent practicable, investigated, so that no Californian is harmed by the delay in the provision of full services.

(b) Notwithstanding any other provision of law:

(1) Each matter pending before the Bureau for Private Postsecondary and Vocational Education as of the close of business on June 30, 2007, shall

be deemed to remain pending before the bureau or a successor agency as of February 1, 2008, irrespective of any applicable deadlines. With respect to any deadline applicable to a pending matter, no time shall be deemed to have elapsed between July 1, 2007, and January 31, 2008, inclusive.

(A) For the purposes of this paragraph, “matter” includes, but is not necessarily limited to, an appeal, a complaint, an evaluation, a hearing, or an investigation.

(B) For the purposes of this paragraph, “matter” does not include a Student Tuition Recovery Fund Claim. Nothing in this paragraph shall be construed to prevent the payment of existing Student Tuition Recovery Fund claims that have been filed with, and approved, by the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007.

(2) Any institution, program, or course of study that is approved by the bureau or authorized pursuant to Section 94905 of the Education Code, as it read on June 30, 2007, as of the close of business on June 30, 2007, shall be deemed to be approved as of February 1, 2008, irrespective of any applicable conditions, deadlines, or additional requirements. With respect to any deadline applicable to the approval, renewal of approval, or conditional approval of an institution, program, or course of study, no time shall be deemed to have elapsed between July 1, 2007, and January 31, 2008, inclusive.

(3) From July 1, 2007, to January 31, 2008, inclusive, the Director of Consumer Affairs may enter into voluntary agreements with institutions that state that the institutions agree to comply with state statutes, rules, and regulations pertaining to private postsecondary institutions or pertaining to non-WASC regionally accredited institutions as defined in Section 94740.5 of the Education Code, as it exists on June 30, 2007, in effect as of the close of business on June 30, 2007, that had a valid approval to operate or authorization pursuant to Section 94905 of the Education Code, as it exists on June 30, 2007, for the purpose of ensuring continued student protection after Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as it exists on June 30, 2007, becomes inoperative.

(4) From July 1, 2007, to January 31, 2008, inclusive, the Director of Consumer Affairs shall administer the Student Tuition Recovery Fund.

SEC. 2. (a) The Private Postsecondary and Vocational Education Administration Fund is continued in existence under the administration of the Department of Consumer Affairs.

(b) (1) The Student Tuition Recovery Fund is continued in existence under the administration of the Department of Consumer Affairs. The fund shall consist of only one educational institution account for payment of approved claims.

(2) The moneys in the Student Tuition Recovery Fund are continuously appropriated, without regard to fiscal years, to the Director of Consumer Affairs for the purpose of paying claims that were filed with, and approved by, the former Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, under the provisions of Chapter 7 (commencing with

Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code, as it exists on June 30, 2007. A claim that has been filed with and approved by the Bureau for Private Postsecondary and Vocational Education prior to July 1, 2007, but not paid by the Director of Consumer Affairs between July 1, 2007, and January 31, 2008, inclusive, shall be deemed pending before a successor agency on February 1, 2008.

(3) From July 1, 2007, to December 31, 2007, inclusive, an institution is not liable for payments to the Student Tuition Recovery Fund. During that period, an institution shall not collect money from its students for purposes of making payments to that fund. If any collections are made for an academic term falling within that period, the institution making the collection shall refund those moneys to the student from whom they were collected. Any funds collected by an institution from its students for the purposes of making payments to the Student Tuition Recovery Fund on or before June 30, 2007, and still in the possession of the institution as of July 1, 2007, shall be remitted by the institution to the Director of Consumer Affairs.

(4) It is the intent of the Legislature that, to the extent possible, the Department of Consumer Affairs shall pay claims found to be owed and payable by the Bureau for Private Postsecondary and Vocational Education to students from the Student Tuition Recovery Fund between June 30, 2007, and January 31, 2008, inclusive.

SEC. 3. (a) It is the intent of the Legislature to provide institutions with a legal method by which they may comply with applicable federal statutes, rules, and regulations from July 1, 2007, to January 31, 2008, inclusive, and to affirm for the United States Department of Education that voluntary agreements, as referenced in paragraph (3) of subdivision (b) of Section 1 of this act, demonstrate the legal authorization to operate schools under California law from July 1, 2007, to January 31, 2008, inclusive.

(b) From close of business on June 30, 2007, until close of business on January 31, 2008, inclusive, wherever in law there is a reference to an institution “approved by the Bureau for Private Postsecondary and Vocational Education,” this shall mean any school that has entered into, and is complying with, a voluntary agreement under paragraph (3) of subdivision (b) of Section 1 of this act.

SEC. 4. (a) For purposes of this act, “Reform Act” means the Private Postsecondary and Vocational Education Reform Act of 1989 (Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code), as it exists on June 30, 2007.

(b) (1) Notwithstanding any other provision of law, the rights and obligations established by the Reform Act on or before June 30, 2007, shall be determined by the law in effect on or before June 30, 2007, and any claim or cause of action in any manner based on the Reform Act that arose on or before June 30, 2007, whether or not reduced to a final judgment, shall be preserved, and any remedy that was or could have been ordered to redress a violation of the Reform Act on or before June 30, 2007, may be ordered or maintained thereafter.

(2) The rights, obligations, claims, causes of action, and remedies described in paragraph (1) shall remain subject to the provisions of the Reform Act in effect on or before June 30, 2007, notwithstanding the inoperative status or repeal of the Reform Act on or after July 1, 2007.

SEC. 5. (a) Wherever in this act there is a provision related to a voluntary agreement, that provision shall be applicable only if the Department of Consumer Affairs has proposed and tendered that voluntary agreement as permitted by this act, and the institution has submitted to the Department of Consumer Affairs an executed voluntary agreement within 15 days of receipt.

(b) No more than 60 days after the operative date of that the act that adds this section becomes operative, an institution shall disclose to all of its current and prospective students whether it has agreed to, or has declined to enter into, a voluntary agreement with the Director of Consumer Affairs pursuant to paragraph (3) of subdivision (b) of Section 1 of this act.

SEC. 6. It is the intent of the Legislature that the Department of Consumer Affairs shall continue to provide all applicable rights and protections of civil service to its employees, including, but not necessarily limited to, employees of the Bureau for Private Postsecondary and Vocational Education.

SEC. 7. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 8. This act, including, but not necessarily limited to, its provisions relating to voluntary agreements, shall apply retroactively to July 1, 2007.

SEC. 9. Private postsecondary educational institutions that have a valid approval to operate, and instructors holding a valid certificate of authorization for service, from the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007, shall retain those approvals or certificates of authorization for purposes of interpreting other provisions of applicable law that refer or relate to the issuance of a license or registration and meeting qualifications for licensing examinations. Those approvals shall be effective through July 1, 2008, unless a later enacted statute modifies, extends, or deletes that date.

SEC. 10. Sections 1 to 8, inclusive, of this act shall be repealed on February 1, 2008, unless a later enacted statute, that is enacted before February 1, 2008, deletes or extends that date.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the protection of the interests of students and institutions having matters pending before the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007, and for students, institutions, and law enforcement agencies having any claim or

cause of action in any manner based on the Reform Act and that arose on or before June 30, 2007, it is necessary that this act take effect immediately.

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